Reply form: MiFIR Review

RTS 2, RTS on reasonable commercial basis and RTS 23

Responding to this paper

ESMA invites comments on all matters in the Consultation Paper and in particular on the specific questions in this reply form. Comments are most helpful if they:

- respond to the question stated;

- indicate the specific question to which the comment relates;

- contain a clear rationale; and

- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **28 August 2024.**

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in this reply form.

- Please do not remove tags of the type <ESMA_QUESTION_CP1_1>. Your response to each question has to be framed by the two tags corresponding to the question.

- If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.

- When you have drafted your responses, save the reply form according to the following convention: ESMA_CP1_nameofrespondent.

  For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA_CP1_ABCD.

- Upload the Word reply form containing your responses to ESMA's website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings 'Legal notice' and heading 'Data protection'..

1. General information about respondent

Name of the company / organisation	European Venues and Intermediaries Association ["EVIA"]
Activity	Regulated markets/Exchanges/Trading Systems
Are you representing an association?	☒
Country/Region	Europe

2. Questions

CP on the amendment of RTS 2

Q1   Do you agree with the definition of CLOB trading systems proposed above? If not, please explain why.

<ESMA_QUESTION_CP1_1>
We do not agree with the proposal to change the definition of a CLOB trading system to be fundamentally based on an "auction".

More important than honing the definitions of trading systems should be the recognition that for the non-equities ecosystem, just about all MTFs and OTFs will deploy multiple trading protocols to arrange the self-same liquidity pool and within the same MIC or Segment-MIC. A substantive difference to the pure equities systems under RTS1, this, together with the wider wholesale characteristics, likely removes much of the relevance for any focus of narrow definitions of discreet trading protocols within any "system" however that may be defined.

When considering the protocols, by definition, any auction can only be discrete, whereas by definition a CLOB is "*continuous;*" making the basis of the proposition for a "continuous auction" as to be orthogonal to the underlying definitions and to any natural language comprehension. In respect of the currently accepted basic definition or an order book, the RTS1 approach appears both valid and sufficient to be also applied in RTS2.

Most Trading Venues use the term, "continuous trading" together with "auction" rather than the hybrid term of "continuous auction". As a practical application, the characterisation of an MTF order book could be as that of an exchange CLOB, but without an opening auction. Therefore, whilst it may be valid to include elements of a continuous auction order book trading as a subsidiary point [b] having established the legal basis of a continuous market in point [a] but mindful that continuous and periodic auction market models should differ under the CLOB definition.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_1>

Q2   Do you consider that the definition should include other trading systems? Please elaborate.

<ESMA_QUESTION_CP1_2>
No, we consider that most global regulatory frameworks define and establish the CLOB as a basic definition and therefore a building block to the regulatory regime. It would therefore be inappropriate to seek to create hybridity at this fundamental level.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_2>

Q3   Do you agree that the description of periodic auction trading systems set out in Annex I of RTS 2 is relevant for specifying the characteristics of those trading systems in the revised RTS? If not, please elaborate.

<ESMA_QUESTION_CP1_3>
Yes, we broadly agree. We think this is a sensible proposal and brings RTS 2 in line with RTS 1.

However, mindful that various recent transparency proposals regarding periodic auction trading systems make the supposition that price is transparent from the outset, whereas almost all the volume match auctions operated by MiFIR venues only generate the price at the end of the volume matching session which operates as price-blind until finalisation.

We would therefore ask that the definition adds the clarification: "*… regardless of whether price components are set at the commencement or at the finalisation of the methodology process.*"

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_3>

Q4   Do you agree to use ESA 2010 to classify bond issuers If not, please explain and provide alternatives on how clarify how to classify sovereign, other public and corporate issuers.

<ESMA_QUESTION_CP1_4>

Yes, we agree with the proposal to use ESA 2010 to classify bond issuers both because it complies with the European Statistical System and therefore with global standards, but moreover because it supports the continued deployment of CFI Codes and the use of Common Data Elements.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_4>

Q5   Do you agree with the proposed LiS pre-trade thresholds for bonds? In your answer, please also consider the analysis provided in sections 4.2.1.

<ESMA_QUESTION_CP1_5>
 Yes, we agree with the proposals as we remain very supportive of the move from dynamic to static thresholds.

In terms of the pre-trade LIS proposals, these would appear to be appropriate when considering that the amending Regulation reduces the scope so that this pre-transparency obligation applies only to central limit order book and periodic auction trading systems, and no longer to voice trading and request-for-quote systems.

The levels effectively set the pre-trade LIS such that all trades on an order-book are required to be pre-trade transparent; but given that this is anyway the case by definition, the question quickly becomes tautological.

In the case of periodic auctions, we would again remind ESMA that most volume match auctions do not establish the price until the end of the methodology and therefore flag that this should not, or may require specific delegation, so as not to prevent these pre-trade thresholds provisioning a limitation.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_5>

Q6   Do you agree with the proposed LiS pre-trade thresholds for SFPs and EUAs? In your answer, please also consider the analysis provided in section 4.2.2.

<ESMA_QUESTION_CP1_6>
No, we disagree.

Firstly, the size should better be set in the standard trading Units which for EUAs is Tons and not Lots.

The application of the 90% Quartile for EUAs as a liquid future would directly impact the Block size threshold which the exchange can set. An analysis of submitted blocks would place the appropriate level at 2 Lots.

The Eur 250,000 threshold for SFPs is appropriate.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_6>

Q7   Do you agree with the approach taken for the illiquid waiver for bonds, SFPs and EUA? If you disagree with how the liquidity threshold is determined, please include your comments in Q11 for bonds, Q14 for SFPs and/or Q17 for EUAs.

<ESMA_QUESTION_CP1_7>
Under the caveat that we would much prefer not to have any transitional or iterative periods to the change implementation, we support the proposed approach taken for the illiquid waiver. This is because all the proposals would require substantial technical systems changes, and the management of these would be more effective in a guise of one single transition.

We support that the MiFIR review has introduced a static determination of liquidity for non-equity instruments, and therefore underscore that it is consequently very important to get this fixed threshold correct.

Notwithstanding the fact that we consider the outcome for EUA LiS pre-trade thresholds to be wrong, we do consider that the overall approach and framework is correct. i.e. in the case of EUAs they are indeed correct to be "Liquid" albeit that this on exchange liquidity occurs by dint of brokered block submissions above the LIS.

For SFPs these are clearly almost always illiquid, and the overall approach and framework is therefore correct.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_7>

Q8   Do you agree with the changes to post-trade fields summarised in Table 5? Please identify the proposal ID in your response.

<ESMA_QUESTION_CP1_8>
We broadly agree with the changes to column naming, removing references to CTP in the 'applicability' column, the venue of publication and the addition of a 'flags' column. Foremost it should be set out that these changes are significant and will require schema changes which shall require

substantial technical development by trading venues. In itself, whatever the details agreed, this necessitates a longer transition period than currently envisioned in order to comply, especially since there are further elements to consider including managing third-party reporting providers and emerging divergence with the UK. Emphasis should therefore be placed on an adequate transition period well in excess of 12 months following the Official Journal publication.

We note that the addition of new field [line item 6] 'type of trading system', largely duplicates existing line item [4] " Venue of publication" wherein any MTF or OTF repopulated both with the same data. Therefore, new field 6 appears redundant where that venue information can be sourced from field 4. Alternatively, field 6 could be a simple Boolean switch between TV and APA. In considering this addition of 'type of trading system,' we would prefer this to be reconsidered as a list for the types of trading protocols together within the system, because non-equities systems tend to be a collection of different protocols adhering to the same liquidity pool under the same MIC.

We also note that the fields summarised in Table 5 are both supported and already widely implemented in the FIX and other standards with "Short Codes".

We would ask ESMA to clarify both that the inclusion of 'VOIC' and 'RFQT' here has no bearing on, nor conflict with their exclusion from pre-trade transparency; and furthermore, to confirm that 'VOIC' and 'RFQT' does not include "X-OFF" activities such as Bilateral Trades resulting from the Reception and Transmission of Orders in arranging capacities.

Following our response to Question 1, the inclusion of CLOBs may need to be modified to "CLOBs together with Continuous Auction Systems."

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_8>

Q9   Do you agree not to change the concept of "as close to real-time as technically possible"? If not, what would be in your view the maximum permissible delay?

<ESMA_QUESTION_CP1_9>
No, we disagree concept of "as close to real-time as technically possible" as many necessary processes to achieve reporting are not solely technical.

The concept envisaged is a CLOB system inside a single trading venue. Where broker operated MTFs and OTFs are arranging trade legs and packages on core economic terms between multiple counterparties this is far from the actuality.

These not solely technical involve communications with the client and its further chain on matters around trade shape, allocation, and aggregation as well as confirmation of account and trading counterparty entity.

The concept of *"as close to real-time as technically possible"* should be restricted to trades identified in Table 5 under the Formats 'CLOB' & 'QDTS' only. For other trading systems the period should be 30 minutes, and the description term should be "*as close to real-time as possible."*

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_9>

Q10   Do you agree with the changes proposed for the purpose of the reporting of OTC transactions?

<ESMA_QUESTION_CP1_10>
Yes, although we reiterate that the poor terminology between ESMA's use of "*OTC Transactions*" under MiFIR and "*OTC Derivatives*" under both EMIR and MIFIR should have been changed and made straightforward under this review opportunity in order to clarify and uniformly approach the treatment of trades made on MTFs and OTFs as organised trading venues.

The removal of the provisions under Article 7(5) and 7(6) of RTS 2 is correct and the level 1 text could be supplanted by further guidelines if needs be.

In respect of the retention of Art 7 (7) where firms are conducting Matched Principal Model trades at different prices between the trade legs. We note that whilst ESMA has suggested a protocol for the operation where the trade is concluded on OTF, it has not extended this to the cases where the trade is concluded either on MTF using a subsidiary settlement facility, nor where the Investment Firm concludes outside a trading venue. In these cases, there will not be the situation for the same price with a single party interposed, and provision in the RTS should be made accordingly.

In relation to the publication of package transactions, we agree with the deletion of the text in Article 7(8). To further note that the widely used FIX messaging standard supports a package transaction flag.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_10>

Q11   Do you agree with the liquidity thresholds set out in Table 7 above? If not, please provide an alternative approach.

<ESMA_QUESTION_CP1_11>

Yes, we agree with setting the liquidity thresholds at >= EUR 1Bn for Sovereign & public bonds, together with rather lower values for Corporate, convertible, and other bonds.

In the case of the lower thresholds, we note that it is difficult to be correct in these determinations across the breadth of issues and multiple trading phases and external trading environments; therefore, overcompensation should be made in the provision of reviews for recalibration and for temporary disapplication's to be simply instituted.

As per prior answers, an adequate transition period of over 12 months will be needed to ensure that trading venues have time to implement the necessary technical development processes to put this into force.

It would also be helpful to receive guidance from ESMA concerning back-reporting scenarios as the transition into the revised regime could be challenging where errors are identified, and subsequent resubmissions have to be made. The considerations around reflecting the EMIR-Refit transition protocols appear valid.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_11>

Q12   Do you agree with the proposed thresholds specified in the above Tables? If not, please justify by providing qualitative data to your analysis and differentiating per asset class.

<ESMA_QUESTION_CP1_12>
No, we disagree. For the establishment of the price deferral across each of the largest three bond categories [3,4,5], the period set out should consistently be at end of T+1.

As operators of trading venues our interest is to be able to broadcast established and traded prices as soon as they happen in order to build trading interest. However, is it plainly apparent for wholesale markets where risk is transferred both in transaction set packages and also in parcels that the end of day proposals as set out would pose a threat to liquidity provision and encourage less trading of smaller parcels at wider spreads to end users.

This would be especially the case in Europe relative to other jurisdictions and as such appears to contradict the stated objectives in the CMU project.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_12>

Q13   Do you agree with the maximum deferral period set out in the tables above?

<ESMA_QUESTION_CP1_13>
No, we disagree. For the establishment of Volume deferral across each of the three bond catego-ries the period set out should consistently be 4 weeks. Therefore Categories [3,4] should be changed from one-week and two-weeks to match Category [5] at 4 weeks.

Across the lifetime of MiFID2 we have consistently advocated for effective volume masking in order to facilitate price and trade dissemination to encourage market participants to build liquidity into actively trading issues. However, the currently proposed lower deferrals for categories three and four, which is the majority of wholesale markets trading, would embed a disincentive towards market participation as hedged risk remains on trading books for longer periods of time.

Mindful that no bond ever trades discreetly, nor in isolation, it also would discourage the choice of European liquidity pools relative to other global regimes for the activities of capital raising and risk transfer.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_13>

Q14   Do you agree with a static determination of liquidity and determine that all SFPs are illiquid? If not, can you suggest any alternative methodology on how to define liquidity for SFPs?

<ESMA_QUESTION_CP1_14>
Yes, we agree.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_14>

Q15   Do you agree not to introduce changes to the threshold size currently applicable to SFPs as provided in RTS 2?

<ESMA_QUESTION_CP1_15>
Yes, we agree.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_15>

Q16   Do you agree with the maximum duration proposed?

<ESMA_QUESTION_CP1_16>
Yes, we agree.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_16>

Q17   Do you agree with a static determination of liquidity and determine that all EUA are liquid? If not, can you suggest any alternative methodology on how to define liquidity for EUAs?

<ESMA_QUESTION_CP1_17>
Yes, we agree in the case of front vintage only.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_17>

Q18   Do you agree with the proposed framework for the deferral regime for EUAs? If not, please suggest an alternative methodology.

<ESMA_QUESTION_CP1_18>
No, we disagree.

The deferral regime should we set out in the commonly traded unit of measurement and exchange, which for EUAs are Tonnes. [One lot of 1000 EUAs. Each EUA being an Allowance which is an entitlement to emit one tonne of carbon dioxide equivalent gas.]

For EUAs the Pre-trade LIS is too large because this data point creates the exchange Bock size threshold. This should therefore be set at 2 lots or rather more correctly 2000 tonnes.

For the post-trade deferrals, a trade size of 25 lots is recognised to exceed the 80-90 percentile target by some distance, which together with only a T+1 deferral maximum may hinder the development of the ETS beyond its current level. We would query why this disincentive could be an objective for ESMA when other parts of the EC are undertaking measures to enhance the regime, most notably the planned 'CBAM'.

An alternative methodology would be to target an 80% quartile and facilitate a 4-week deferral period.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_18>

Q19   Do you agree with the classification of ETCs and ETNs as types of bonds?

<ESMA_QUESTION_CP1_19>
Yes, we agree.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_19>

Q20   Do you agree with the liquidity determination for ETCs and ETNs. If not, please suggest an alternative approach to the liquidity determination.

<ESMA_QUESTION_CP1_20>
No comment.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_20>

Q21   Do you agree with the pre- and post-trade thresholds? If not, please suggest an alternative methodology.

<ESMA_QUESTION_CP1_21>
No comment.

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<ESMA_QUESTION_CP1_21>

Q22   What is your view in relation to the implementation of the supplementary deferral regime for sovereign bonds?

<ESMA_QUESTION_CP1_22>
Noting the limitations now applied to the scope for national supplementary deferrals, but the protections these afford to individual sovereign issuers and their respective DMOs.

We agree with the ESMA proposals for the treatment of aggregated data to be published, together with the subsequent components.

We also agree that any such supplementary deferrals should be based on the volume omission under Article 13(3)(a).

TYPE YOUR TEXT HERE

<ESMA_QUESTION_CP1_22>

Q23   Do you agree not to make any changes to the temporary suspension of transparency obligations framework as it currently in RTS 2?

<ESMA_QUESTION_CP1_23>
Yes, we agree.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_23>

Q24   Do you have any further comment or suggestion on the draft RTS? Please elaborate your answer.

<ESMA_QUESTION_CP1_24>
We consider that there are two broader issues which ESMA should consider.

Firstly, ESMA should revisit its quantitative reports (EQU/NQU reports) for which trading venues need to submit daily reports on every relevant ISIN/venue combination, even when the content of the report is a zero-value reflecting that there have been no trades in a particular instrument that day. Our members' systems comprise some 660,000 IRD records and over 300,000,000 quant reports. There are significant data processing quality topics and costs associated with simply maintaining these reports in resilient storage. This makes queries and error-checks on zero submissions costly and burdensome; and therefore, it would make sense for ESMA to discontinue reporting of zero values.

Secondly, we would urge ESMA to ensure the timely publishing of schemas, together with the provision of more guidance on when revised or replacement schemas will be published, and provide more timely access to test systems ahead of implementation of new schemas. Firms note often finding themselves only days away from reporting deadlines for new schemas with only the draft sent from ESMA and not final version. As a consequence, firms have undertaken production reporting based on such draft schema's and guidance, which has challenged data quality targets.

Given that the changes in Level 1 impose further complexity in respect of the treatment of central bank transactions, we would encourage ESMA to consider the recodification of these transactions via flags which would classify the intended transparency treatment for each trade leg.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_24>

Q25   What level of resources (financial and other) would be required to implement and comply with the draft amended RTS and for which related cost (please distinguish between one off and ongoing costs)? When responding to this question, please provide information on the size, internal set-up and the nature, scale and complexity of the activities of your organisation, where relevant.

<ESMA_QUESTION_CP1_25>
Changes to schemas and associated processing to accommodate changed reporting formats (and, in particular, trade flags) require substantial technology and system revisions. The scale of these changes to relevant trade capture systems & technical protocols appears substantially underestimated in the consultation.

Such changes carry a minimum lead time of up to 6 months from the point at which the RTS changes have been finalised, and prior to any outsourcing considerations, testing and application. Therefore, we consider that a minimum of 18-months will be necessary, together with further provisions for late-stage extensions, deferrals or 'no-action' measures.

It's also important to highlight that, from an operational perspective, it would be significantly better to phase-in the changes rather than have one 'big bang' of change. This creates significant risk when it comes to day one of the new regime if we encounter issues. It makes it difficult to properly identify the causes of data quality issues.

Further, the industry has adopted a working practice of giving three months' notice for any changes relating to market data publication, whether both pre-trade and post-trade transparency. Together therefore a 6-month lead time would therefore apply for the systems alone, but wider third-party communications, their phasing, coordination and planning would require not less than an 18-month implementation. We therefore believe that 1st May 2025 is overly ambitious and should be deferred until the start of 2026.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_25>

CP on the RTS on reasonable commercial basis

Q26   Do you agree to the general approach used to specify the costs and margin attributable to the production and distribution of market data? Please elaborate.

<ESMA_QUESTION_CP1_26>
The general approach appears very burdensome where, as ESMA explicitly recognises, the heterogeneity across different providers and business models makes any comparisons and expected outcomes highly tenuous. Likely ESMA would be better setting out what is unreasonable as a starting basis rather than trying to codify and model the entire world on the basis of assumptions.

Furthermore, ESMA acknowledges that the level 1 does not provide it with a price competition mandate to set explicit margins. Indeed, even if it did the enterprises in question are global and the reach and capacity of ESMA would need to be extraterritorial.

The five categories of costs set out do indeed cover the scope of business operations; and clearly each business in scope will already have management metrics around their operating margins which describe the economic model of the business.

Beyond this fact, the specified input data appears non-standard and incomparable. Firms will sometimes attain raw data from consolidated group operations whereas others may purchase clean data from third parties. Staff may be employed in different countries within the EU or across the globe.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_26>

Q27   Do you agree with the proposed approach to cost calculation based on the identification of different cost categories attributable to the production and dissemination of market data (i.e. (i) infrastructure costs; (ii) connectivity costs; (iii) personnel costs; (iv) financial costs; (v) administrative costs)? Please elaborate.

<ESMA_QUESTION_CP1_27>
The five categories of costs set out do indeed cover the scope of business operation; however, the relative and absolute calculations to quantify these appears highly subjective based on business model and underlying assumptions.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_27>

Q28   Do you agree with the proposal of apportioning costs based on the use of resources (i.e., infrastructure, personnel, software…) for each service provided? Do you think the methodology to be used to apportion costs should be further specified? Please elaborate.

<ESMA_QUESTION_CP1_28>
Yes, we agree. By apportioning business costs based on the use of each specified categories of resource appears appropriate, but it's likely that further guidance may be required to map this approach to accounting standards used by firms.

Issues such as relevant accounting period need to be standardised and normalised; whilst the calendar terms for the basis periods of applicable costs and licences should be set out. Moreover, guidance as to which costs borne in the EU versus those in other locations or in other group entities may be applied.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_28>

Q29   Do you agree that the net profit as defined in Article 3 of the draft RTS can be a representative proxy of the margin applicable to data fees and would you include additional principles to define when a margin can be considered reasonable? Please elaborate.

<ESMA_QUESTION_CP1_29>
The concept of a standard and comparable margin attributable to the production and dissemination of market data is desirable. However, whether this ratio can be reliably attained in a meaningful way appears tenuous and unlikely.

Without assessing trial data across a variety of business models it would be difficult to hold a view as to whether net profit as defined in Article 3 of the draft RTS can be a representative proxy of the margin applicable to data fees. In this way the regulatory text would be better sited following a trial period involving a diverse sample set of commercial data providers.

It would appear that firms seeking to either increase or decrease the outcome data would hold ample tool to change both the costs and the charges in any accounting period to the extent that the derived margin ratio would not relate to the underlying business model or its user fees.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_29>

Q30   Do you agree with the proposed template for the purpose of information reporting to NCAs on the cost of producing and disseminating data and on the margin applied to data? Please elaborate, including if further information should in your view be added to the template.

<ESMA_QUESTION_CP1_30>
Yes, we agree with the proposed template in seeking to attain the data relevant to calculate the required outputs.
Again, we note that what costs are relevant to which activities in the European Union and which customers are paying for usage only within the European Union appears entirely subjective and

without merit. Also, the fact that so little of many data firm's activities concern the distribution of in-scope MiFIR transparency data makes the itemisation required very subjective indeed.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_30>

Q31   What are in your view the obstacles to non-discriminatory access to data taking into consideration the current data market data policies and agreements?

<ESMA_QUESTION_CP1_31>
We agree that the criterion for a non-discriminatory basis should requires the market data provider to (i) apply the same fees, (ii) offer the same technical arrangements and (iii) apply the same terms and conditions related to data access to all customers.

The requirements across points (1 – 5) in Annex 3/ Article 4 are all appropriate and relevant. We do not view any obstacles to non-discriminatory access to traded data; but are aware that users are categorised according to the type of user and the use-case. Therefore, we would add a further provision that use-type and the scale of supply really matters in determining the contractual service terms and the commensurate fees.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_31>

Q32   What are the elements which could affect prices in data provision (e.g. connectivity, volume)? Do they vary according to the use of data made by the user or the type of user? Please elaborate.

<ESMA_QUESTION_CP1_32>
We concur that ESMA correctly identifies that for different user types, so different arrangements for that data provision apply in terms of connectivity, transmission channels, the latency, the detail or granularity in the breath, the tagging and metadata, its structuring, and the volume of data. This also turns on the nature, structure, and volume of the data itself.

It is also generally accepted that data supply and contractual arrangements vary according to the use of data made by the user or the type of user. These have evolved to commonly concern either, "display" or "non-display" and for ingestion and consumption via "desktop", "an Enterprise", or for the creation of "derived data" rights and for commercial redistribution.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_32>

Q33   Do you agree with ESMA's proposal on how to set up fee categories. Please justify your answer.

<ESMA_QUESTION_CP1_33>
Yes, the formal legal adoption of fee categories would essentially codify current generally accepted market practice.

We would add that the provision to use supplied data to create "derived data" which is non-reversable is also a commonly used category.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_33>

Q34   Regarding redistribution of market data, do you agree with the analysis of ESMA? If not, please elaborate on the possible risks you identify and possible venues to mitigate these. In your response please elaborate on actual redistribution models.

<ESMA_QUESTION_CP1_34>
We agree with ESMA's analysis regarding redistribution of market data, noting that this aspect is far less standardised and codified than the general consumption of data.

Clearly the principal redistribution models sit with the major handful of data vendors, but across smaller and emerging market actors there is a wide diversity of approaches.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_34>

Q35   Are there any other terms and conditions in market data agreements beyond the ones listed in this section which you perceive to be biased and/or unfair? If yes, please list them and elaborate your answer.

<ESMA_QUESTION_CP1_35>
In addition to the non-exhaustive six-part list set out by ESMA in #244 could be: the labelling of data under ISO standards; the scope of data supplied; quality and corrections to the data supply; flexibility and variety to contractual timeframes offered; and the rights of appeal and adjudication subsequent to audit.

In respect of the quantum of fees, the general experience across the industry over recent decades has been the increasing volume of data points under existing fees rather than increasing unit prices.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_35>

Q36   Please provide your view on ESMA's proposal in respect to (i) the obligation to provide pre-contractual information, (ii) general principle on fair terms, (iii) the language of the market data agreement, (iv) the market data agreement conformity with published policies and (v) the provision on fees and additional costs.

<ESMA_QUESTION_CP1_36>
ESMA's objective in respect of the basic terms for data provision in Q36 is to set standard and de-minimus basic requirements. We agree that across the five itemised points specified in the question that these are broadly delivered.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_36>

Q37   According to your experience, has the per-user model been inserted in the market data agreements as an option for billing? If yes, do you have experience in the usage of this option? Is the proposed wording of this option in the draft RTS useful? What are in your views the obstacles to its use?

<ESMA_QUESTION_CP1_37>
No. Generally the initial terms hold throughout the term and later-date insertions are unlikely. Clearly the desktop licence is essentially a 'per-user' model and is most exemplified by the standard Bloomberg Model.

However, and as mentioned previously, market data agreements generally hold options for an either a desktop licence or an enterprise licence.

The proposed Article 12 on 'Per user fees', especially when taken together with the related provision across RTS Chapter IV concerning unbiased and fair contractual terms appear to embody sound and appropriate basic principles.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_37>

Q38   Do you agree with ESMA's proposal on penalties? Please elaborate your answer.

<ESMA_QUESTION_CP1_38>
Yes, we agree.

The proposed Article 12 on penalties appear to set out sound and appropriate basic principles.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_38>

Q39 **Do you agree with ESMA's proposal on audits? Please elaborate your answer.**

<ESMA_QUESTION_CP1_39>
Yes, we agree.

The proposed Article 15 on audits appear proportionate and set out the appropriate basic principles.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_39>

Q40 **Would you adopt any additional safeguards to ensure market data agreements terms and conditions are fair and unbiased? Please elaborate your answer.**

<ESMA_QUESTION_CP1_40>
We would propose a basic "ombudsman right," such that the right of appeal by a market user exists to the relevant NCA where it considers to the terms in the contractual data provisions clearly or persistently contravene the pertaining RTS.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_40>

Q41 **Do you agree with the standardised publication template set out in Annex I of the draft RTS? Do you have any comments and suggestions to improve the standardised publication format and the accompanying instructions? Please elaborate your answer.**

<ESMA_QUESTION_CP1_41>
We agree that a standardised publication template set should be developed and set out.

This may also include the deployment of Enterprise Agreements which would not have a per-user attribute, and for derived data or more commercial usage for which a per-user metric would not hold any utility.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_41>

Q42 Do you agree with the proposed list of standard terminology and definitions? Is there any other terminology used in market data policies that would need to be standardised? If yes, please give examples and suggestions of definitions.

<ESMA_QUESTION_CP1_42>
We agree that a standardised publication template set should be developed and set out.
This may also include the deployment of Enterprise Agreements which would not have a per-user attribute, and for derived data or more commercial usage for which a per-user metric would not hold any utility.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_42>

Q43 Do you consider that the "user-id" and the "device" should still be considered as "unit of count" for the display and non-display data respectively? Do you think (an)other unit(s) of count can better identify the occurrence of costs in data provision and dissemination and if yes, which?

<ESMA_QUESTION_CP1_43>
No. These appear outdated given modern technological developments including Colocation, AI capabilities for unstructured data and Cloud-based adaptations.

As per prior we would advocate a basic use categorisation of: Desktop; Enterprise and Derived Data.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_43>

Q44 Do you foresee other types of connectivity that should be defined beside "physical connection" to quantify the level of data consumption? Please elaborate your answer.

<ESMA_QUESTION_CP1_44>
These appear outdated given modern technological developments including AI capabilities for unstructured data and Cloud-based adaptations.

As per prior we would advocate a basic use categorisation of: Desktop; Enterprise and Derived Data.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_44>

Q45   Do you think there is any other information that market data providers should disclose to improve the transparency on market data costs and how prices for market data are set? If yes, please provide suggestions.

<ESMA_QUESTION_CP1_45>
No. The Cost Disclosures set out should be standardised and provided via an annex template as a set of "Key Disclosures Document", otherwise the complexities and details of each supply model would obscure the information signals.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_45>

Q46   Do you agree with the approach on delayed data proposed by ESMA? Please elaborate your answer.

<ESMA_QUESTION_CP1_46>
Yes, we agree.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_46>

Q47   Do you agree with the proposal not to require any type of registration to access delayed data? Please elaborate your answer.

<ESMA_QUESTION_CP1_47>
No, we disagree.

A Basic registration and a validation against automated BOTs are prudent and essential, not least because the underlying trading venue could otherwise be compromised.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_47>

Q48   ESMA proposes the RTS to enter into force 3 months after publication in the OJ to allow for sufficient time for preparation and amendments to be made by the industry. Would you agree? Would you suggest a different or no preparation time? Please elaborate your answer.

<ESMA_QUESTION_CP1_48>
No, we disagree.

There are significant technological requirements throughout the RTS, but moreover, there are commensurate legal and contractual changes implicit throughout.

Changes to schemas and associated encodement to accommodate changed reporting formats (and, in particular, trade flags) require substantial technology and system revisions. The scale of these changes to relevant trade capture systems & technical protocols appears substantially underestimated in the consultation. Such changes carry a minimum lead time of up to 6 months from the point at which the RTS changes have been finalised prior to any testing and application.

Further, the industry has adopted a working practice of giving 3 months' notice for any changes relating to market data publication, whether both pre-trade and post-trade transparency.

Together therefore a 6-month lead time would therefore apply for the systems alone, but wider third-party communications, coordination and planning would require not less than a 12-month implementation for the application of the data aspects. Therefore, a prompt entry into force of the RTS should need to be accompanied by transitional provisions covering at least 18 months thereafter.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_48>

Q49   Do you have any further comment or suggestion on the draft RTS? Please elaborate your answer.

<ESMA_QUESTION_CP1_49>
No.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_49>

Q50   What level of resources (financial and other) would be required to implement and comply with the RTS and for which related cost (please distinguish between one

off and ongoing costs)? When responding to this question, please provide infor-mation on the size, internal set-up and the nature, scale and complexity of the ac-tivities of your organisation, where relevant.

<ESMA_QUESTION_CP1_50>
ESMA should seek confidential responses from individual firms on detailed questions relating to quantities in business models. This is due to the competitive nature of the commercial landscape as well as the heterogeneous scale and complexity of the activities between different organisa-tions.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_50>

CP on the amendment of RTS 23

Q51   Do you agree with the proposal for a daily reporting of reference data for both transaction reporting and transparency purposes?

<ESMA_QUESTION_CP1_51>
Yes, we agree.

We would emphasise that a longer transition period than 12 months is needed for implementation because the overall changes to reference data reporting are significant and will result in substan-tive technical work to implement.

Divergence between UK and EU will create two separate reporting regimes, entailing significant costs and development time.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_51>

Q52   For the purposes of both equity and non-equity transparency, do you prefer to re-tain the MiFIR identifier as currently defined or to rely on other fields for classifi-cation purposes? If latter, please outline the proposed solution.

<ESMA_QUESTION_CP1_52>
We would prefer to transition away from the MiFIR identifier as currently defined, and deploy the suggested CFI coding in its place. This would help move towards global standards and other har-monisation across EU legislative files.

We note the detailed work done by ESMA in the Spring 2023 Consultation Paper Manual on post-trade transparency to fully comprehend the mapping and the coding misallocations, such that the transition would bring few surprises but better utility and granularity for the wider scope of RTS 23 envisaged in the consultation.

Notwithstanding the greatly reduced scope of MTF and OTF reference data, we understand and would welcome clarification that with the submission of reference data applying to both transparency and transaction reporting purposes, all reference data will be submitted to FIRDS only, and not into FITRS.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_52>

Q53   Is in your view, the granularity level of the MiFIR identifier adequate for the purposes of MiFIR transparency in the equity and non-equity space? If not, how should it be adjusted?

<ESMA_QUESTION_CP1_53>
Notwithstanding our in Answer Q52 regarding a preference for a CFI basis; we would concur that the granularity level of the MiFIR identifier remains sufficient for the purposes of MiFIR.

Moving to a CFI basis however would better align the systematic trade processing by trading venues and market participants with related activities around the world.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_53>

Q54   How do you expect the change in scope of instruments subject to transparency to impact transparency reference data? Would you agree to maintain the current whole set of reference data for non-equity instruments, currently in RTS 2, in RTS 23? If not, please specify which reference data should not be retained in the view of the revised scope.

<ESMA_QUESTION_CP1_54>
We support the consolidation of the Non-equity reference data currently in RTS 2 into RTS 23, and note once again that the conflicting scope of the definition of "OTC Derivatives" in EMIR to that of "OTC instruments" in MiFIR should be addressed and simplified such that trading venues are treated homogeneously. The reviews of both EMIR and MiFIR were the proper time to align these definitions, but the actions appear to have been overlooked.

For transactions concluded on MTFs and OTFs therefore it appears that the scope of reference data that will be required to be reported will be far less than currently by dint of both the greatly reduced scope for transparency to certain prescribed instruments such as those under the DTO, but also the ISIN revisions currently under consideration in the EC Delegated Act.

This reduction of scope raises the question of data sufficiency for reporting firms to make RTS 22 transaction reporting. Therefore, at this stage, and mindful of the comments in paragraph [320], it would appear more prudent to retain the current whole set of reference data for non-equity instruments, currently in RTS 2, into RTS 23.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_54>

Q55   Do you agree with deleting Field 5 of RTS 2, Annex IV, and use the CFI code for the purposes of derivatives' contract type classification?

<ESMA_QUESTION_CP1_55>
Yes, we fully support deleting Field 5 of RTS 2, Annex IV. It follows from our answer to Question [53] above that migration to a CFI basis proceeds towards global standardisation, adds granularity and enables wider utility.

We understand that where further granularity is required, especially to delineate instrument specific terms not differentiated by the CFI encoding, such as settlement protocols or those applying to digital instruments, than further guidance may be welcome to specify common data elements [CDE] to achieve required transparency or data items for transaction reporting.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_55>

Q56   Do you agree with the proposed alignment between RTS 23 and RTS 2 as set out in this section? Please provide details on which alignment is (not) feasible and why, considering the impact in terms of comprehensiveness and consistency of the reported information.

<ESMA_QUESTION_CP1_56>
Yes, we agree.

We support the consolidation of the multiple RTS 2 fields into RTS 23 as set out in para [332].

We also support the analysis and removal of the redundant fields in paragraphs [333; 334; 335; 336; & 338].

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_56>

Q57   As it concerns "underlying type" classification, do you agree with the proposed reliance on CFI and other reporting fields? With specific regards to Field 27, do you have proposals on how that field may be streamlined?

<ESMA_QUESTION_CP1_57>
Yes, we agree.

In respect of equity derivatives (Field 27), we note that there are further inconsistencies and inadequacies for transaction reporting both 'Total Return Swaps' and 'Contracts for Difference' and would therefore suggest a separate workstream for these instruments outside of the timeline limitations of this consultation package.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_57>

Q58   Do you see additional room for simplification and/or alignment of reference data for transaction reporting and transparency purposes? What would be the impact in terms of one-off and ongoing costs, benefits and change management of such simplifications, in particular with respect to reducing and consolidating data flows to ESMA that exist currently?

<ESMA_QUESTION_CP1_58>
The main scope for simplification and alignment lies in the adoption of global standards such as CFI coding and common adoption of UPIs in order to harmonise cross border operations by firms.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_58>

Q59   Do you have suggestions on how the fields mentioned above may be improved and streamlined?

<ESMA_QUESTION_CP1_59>
We query whether any of the identified fields hold any utility given that they are better articulated in EMIR Refit and the data points can therefore be deduced from the UPI.

TYPE YOUR TEXT HERE

<ESMA_QUESTION_CP1_59>

Q60   Do you agree with the above assessment of the necessary adjustments to be made in the RTS 23 to accommodate for the identifying reference data?

<ESMA_QUESTION_CP1_60>
Yes, we agree with the amendment to exclude the field 'Expiry date' as proposed as it is a direct consequence from the objectives of the prospective Delegated Act on OTC Derivatives Identifying Reference Data for the purpose of transparency requirements.

We therefore also support the inclusion of a specific UPI field in RTS 23 as it becomes important for the single source supply, the harmonised application and effective cross-referencing of reference and transaction data that the UPI is fully integrated into FIRDS independent of any continued role for the ISIN.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_60>

Q61   Do you see a need to specify the 'date by which the reference data are to be reported' different from the date of application or have other comments with regards to the proposed timeline? If so, please specify.

<ESMA_QUESTION_CP1_61>
Yes, we agree with the base ESMA proposal for an implementation period lasting 18 months after publication in the OJ. Our concerns with the timelines are noted above in Q51. This appropriately aligns with the other recent implementation timelines cited.

It should be noted however, that the scale and complexity of the changes will not be fully understood until the publication of the technical standards, and the associated Delegated Act for the UPI.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_61>

Q62   Are there any other international developments or standards agreed at Union or international level that should be considered for the purpose of the development of the RTS on reference data?

<ESMA_QUESTION_CP1_62>

Yes. We are unclear why ISO 4914 UPI was not also included as this is expected to be a field under RTS 23, especially as it is referred to in section 14.2.

We note that in respect of new instruments such as crypto-assets, their derivatives and instruments that may be digitally held on-chain, we understand that the standards cited should be able to be adapted to be appropriately broad and inclusive.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_62>

Q63   Do you agree with the changes proposed in the tables above? Should any other changes be considered to align the MiFIR reporting specifications with the international standards, EMIR and / or SFTR?

<ESMA_QUESTION_CP1_63>
Yes, we agree overall with the proposed changes.

The field 'Indicator of the index/benchmark of a floating rate bond' [#20] should be restricted to ISO Benchmark Curve Name Code.

We suggest that there also be a new and specific field[s] or capability for Total Return Swaps ["TRS"] where traded as spreads to the performance of the undying basket; and where the underlying basket may not be able to be described in terms of ISINs.

Option Style [33] could also add an identity for Digital events traded as a single price such as Triggers, Barriers, Corridors, range K/o's'; Knock-ins or related derivative types with multiple conditionalities and more complex sets of mutually contingent options?

The FX Type [48] serves no purpose and should be removed as postulated.

Emissions should be harmonised with the prospective changes in terminology addressed earlier in the consultation [CERE; ERUE; EUAA becoming redundant]

Under 'OTHC' we would suggest adding a new category for traded certificates such as Guarantees of Origin ["GOO"]

Otherwise under 'OTHC' we would suggest adding a new category for traded cryptoasset derivatives.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_63>

Q64   Do you foresee any challenges with the proposed approach under which the CSDR publications would be integrated in FIRDS?

<ESMA_QUESTION_CP1_64>
Ostensibly this should be straightforward for the bulk of listed discreet securities which settle onto CSDs. Given possible non-standard cases it may be appropriate to delimit the FIRDs supply to a standard subset within the universe of eligible securities.

One challenge with the proposed approach under CSDR may be to understand the identifier and the granularity with which CSDR should understand that list to be composed where it may not necessarily be a simple task to describe and identify those securities which are in scope for the settlement discipline regime under CSDR.

Where a long list of ISINs for discreet securities is available that may be appropriate, but for other instruments, it may be that UPI or groupings under CFI delineation could be more appropriate.

Similarly, where the securities are digital assets, but settled onto the CSD there may not be an adequate scope in FIRDs to describe these at the granularity required for the listing.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_64>

Q65   Do you have any comments with regards to the inclusion of additional fields in the instrument reference data published by ESMA to indicate whether the instrument is in the scope of CSDR and to specify which MIC corresponds to a venue with the highest turnover or the most relevant market in terms of liquidity?

<ESMA_QUESTION_CP1_65>
Whilst the dependency of CSDR on FIRDs data and functionality is a valid and welcome use of the resource, the role of FIRDs as a reference database should not be crossed with other use cases inside that functionality.

That ESMA should determine and provide published data for the trading venue within the Union with the highest turnover is welcome, but this data set should draw from FIRDs, but be functionally separate.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_65>

Q66   Do you support inclusion of the new fields listed above?

<ESMA_QUESTION_CP1_66>
  i.   *To identify the administrator of benchmark*
       a.   **Disagree**: We would consider this important data to be better sited in a dedicated BMR reference data file. The Benchmark itself would have an ISIN from which the relevant fields could be cross referenced. This would also better deal with Third Country Benchmarks.
  ii. *To identify the fund manager*
       a.   **Disagree**: This does not appear to be relevant for instrument data. As per the prior answer, if this is relevant it could be cross-referenced elsewhere from the identity of the fund.
  iii. *To specify the minimum trading value (lot size) can take place ". This is the lowest denomination of bond that can be purchased on the trading venue.*
       a.   **Agree**: Usually this would be "Tick Size" as already set out in MiFID. Any new field should defer and only require this where Tick Size is not appropriate, rather than duplicating the reference data.
  iv. *To identify the DPE reporting the reference data*
       a.   **Agree**: This may require an appropriate deferral in order to prevent reverse engineering of counterparties at risk after trading.
  v.   *New field identifying the venue of admission to trading*
       a.   **Agree**: We note that instrument reference data has historically held the identity of the first reporting entity which was not appropriate.
  vi. *New field to flag the action type such as new, modification, termination, error*
       a.   **Agree**: This should link into EMIR
  vii. *Add a new field "delivery period" for commodity derivatives to distinguish between different products (with the same maturity date but different delivery periods). Applicable to electricity and gas derivatives.*
       a.   **Disagree**: We would advocate that this field takes the REMIT data item identity and cross reference all the product details rather than seeking to duplicate a single characteristic.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_66>

Q67   Do you agree with the amendment listed above for the existing fields?

<ESMA_QUESTION_CP1_67>
We agree with all the six amendments suggested:

i. *Need to align field's name and description of fields 8 (Request for admission to trading by the issuer), 9 (Date of approval of the admission to trading), 10 (Date of request for admission to trading) with MAR and 12 (Termination date)*

ii. *Need of monitoring cases when an instrument is delisted and subsequently it is readmitted to trading*

iii. *Need to clarify in the description of field 11 (Date of admission to trading or date of the first trade)*

iv. *Currently Field 7 Financial Instrument Short Name is included in the venue-related section of fields. However, the FISN shall be consistent for a given ISIN irrespective of the venue of trading*

v. *Field 17 (Nominal value per unit/minimum traded value) combines currently two different features, minimum trading value and nominal per unit*

vi. *To amend field 31 (Strike price) as this value is only relevant for options / warrants that do not have a strike price (such as stay-high-warrants that only have a knock-out, but no strike price).*

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_67>

Q68 **With regards to monitoring of de-listing and re-admission, which option is preferable in your view: (i) reporting by the trading venue of all previous trading periods in the repeatable fields 10, 11 and 12 or (ii) implementing adequate reporting logic of events impacting the instrument (new, modification, termination etc) in order to enable ESMA to reconstruct all trading periods?**

<ESMA_QUESTION_CP1_68>
We prefer option (ii) "*implementing adequate reporting logic of events impacting the instrument (new, modification, termination etc) in order to enable ESMA to reconstruct all trading periods*."

The proposed amendment for multiple time/date values to be reported would complicate the existing dependency on trading venues obligations to submit to FIRDS, whereas using the 'Modify' Action type will be simpler to implement and manage.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_68>

Q69 **Do you support suppressing the reporting of the fields listed above?**

<ESMA_QUESTION_CP1_69>
We agree with all the five removals suggested:
i. *#23 Seniority of the bond*

ii.   #38 Transaction type
iii.   #39 Final price type
iv.   #40 Reference rate
v.   # 48 FX Type

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_69>

Q70   Do you foresee any challenges with the use of JSON format comparing to XML? Please provide estimates of the costs, timelines of implementation and benefits (short- and long term) related to potential transition to JSON.

<ESMA_QUESTION_CP1_70>
Regarding data transmission formats, we do not suggest that ESMA defines at this level of detail or restricts FIRDs accordingly. Rather industry should develop a preferred global approach and adoption of data encoding layers and transport formats.

In the event of any changes to reporting formats being brought about, it should be done separately to all the other reporting changes. So that we can isolate cause of any reporting fails.

Moreover, we do not agree with JSON as being suitable for the reference data transmission requirements. The primary concern is standardisation and universal adoption, but regarding effectiveness and speed, JSON is a relatively more verbose presentation layer than SBE which is preferable for a number of reasons. Encodings such as FAST and SBE are compatible with FIX and non-FIX application protocols so can be used to encode ISO 20022 messages, for example.
The MiFIR text is not specific as to whether it is referring just to the application layer, the presentation layer or a combination of these with or without the session layer. The underlying level 1 requirement of having a 'harmonised format' while recognising that this doesn't define whether this applies to the business content (the application layer), the on-the-wire representation of that business content (the presentation layer) or both. JSON is an encoding (presentation layer), with FAST and SBE offering different encodings rather than XML as supposed by ESMA in the question.

The relevance of all of this to this question lies in the table of 'categories defining quality of transmission protocols' as these apply to these different levels. Performance and Compatibility can be a factor of all three of application, presentation and session layers, Security relates to presentation and session layers, and Reliability relates to the session layer.

The OSI defines messaging protocols as a layered stack with each layer representing a difference and clearly delineated component from business data all the way down to physical hardware. The OSI model has seven layers, but it is the top three that are the most relevant here – the 'application'

layer (containing the business content), the 'presentation' layer (describing how the business content is represented on the wire, otherwise known as 'encoding') and the 'session' layer (which describes aspects such as authentication, message recoverability and similar).

By way of example, ISO 20022 has one application layer (its business domain model) and, at the time of writing, two encodings (XML and ASN.1) and no defined session layer.

The commonly deployed "*FIX messaging suite*" similarly splits into the FIX Protocol (application layer), various encodings (including FIX's own ISO 3531-1 FIX Tag_Value encoding, Simple Binary Encoding and FIXML, but can equally be used with other encodings such as ASN.1, JSON and Google Protocol Buffers) as well as various sessions (including ISO 33531-2 FIX Session Layer, FIXP).

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<ESMA_QUESTION_CP1_70>

Q71   In addition to including a field to identify the DPE, are there any other adjustments needed to enable comprehensive and accurate reporting of reference data by the DPEs?

<ESMA_QUESTION_CP1_71>
Trading Venues do not currently envisage reporting as DPEs.

TYPE YOUR TEXT HERE
<ESMA_QUESTION_CP1_71>

Q72   With regards to the categorisation of classes of financial instruments for the purpose of the DPE register, how such classes should be designated in the register? Is there any further information that should be included in the register to ensure its usability and interoperability with other relevant systems? Do you foresee any practical implementation challenges, and if so, how they could be mitigated?

<ESMA_QUESTION_CP1_72>
Trading Venues do not currently envisage reporting as DPEs.

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<ESMA_QUESTION_CP1_72>

Q73   Are any other adjustments needed to enable comprehensive and accurate reporting of Article 8a(2) derivatives under RTS 23?

<ESMA_QUESTION_CP1_73>

No. From the perspective of trading venues, neither the incoming new instruments under the *CO and DTO*, nor the adjustments in respect of *uTOTV* instruments call for any further adjustments.

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<ESMA_QUESTION_CP1_73>